

University of Oklahoma College of Law University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

1-30-1847

Report : Claim of J. Housman

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

S. Doc. No. 101, 29th Cong., 2nd Sess. (1847)

This Senate Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

IN SENATE OF THE UNITED STATES.

JANUARY 30, 1847.

Submitted, and ordered to be printed.

Mr. BUTLER made the following

REPORT :

The Committee of Claims, to whom was referred the memorial of the representatives of Jacob Housman, have had the same under consideration, and beg leave to submit the following report :

Previous to the Indian hostilities in Florida, Captain Jacob Housman (now deceased) had become nearly the entire proprietor of Indian Key—an island near the coast of Florida, and then under the territorial government of Florida. He had erected upon the island valuable buildings and fixtures—a dwelling-house, storehouses, warehouses, and their appurtenances. He was carrying on a prosperous and lucrative business and trade. Foreseeing the dangers to his property from violent depredations of the savages, he had employed an adequate force for the protection of his property at his own cost. Some time in 1838 Captain Mayo and Lieutenant McLaughlin, with a view of co-operating in the Florida war, were cruising in the neighborhood of Indian Key, and for a time made use of that island as a naval station, for the purposes of deposit and as an hospital. In this state of things, Captain Housman disbanded his own force and relied upon that of the government for the protection of his property. In September, 1839, the yellow fever broke out with such violence as to render it necessary to change the station. The sick and the naval stores were removed to Tea-table Key, a small island about a mile distant from Indian Key. It was no doubt supposed by Captain Housman, as well as the naval commanders, that Indian Key would be thus incidentally protected by the neighborhood of the naval forces. Feeling this security, Captain Housman had employed no other force upon the island. No inconvenience was experienced until about August in the summer of 1840. On the 7th of that month, whilst Lieutenant McLaughlin, with his main force, was absent on a cruise, having left Midshipman Murray on Tea-table Key with five men, Indian Key was invaded by a party of men, sixty in number. This party may be characterized as a banditti of robbers, consisting of Indians, blacks, and probably some white men. Having gone upon the island with a number of small boats, they broke open the stores, and, after taking as many goods as they could conveniently carry off, they destroyed the houses with fire. The circumstances attending this transaction are detailed in the official reports of Lieutenant McLaughlin and Midshipman Murray, hereunto annexed, and which must be referred to as a part of this report.

UNITED STATES SCHOONER FLIRT,
Key Biscayne, August 11, 1840.

SIR: I regret to inform you that, whilst at anchor here on the morning of the 8th instant, an express reached me from Midshipman F. K. Murray, bearing a letter, of which the enclosed is a copy, advising me of the capture of Indian Key by the Indians.

The wind and tide being both adverse, and the channel way very narrow and intricate, I immediately transferred all the marines and crew of this vessel, but such as were required to navigate her, to the Otsego, and started for Tea-table Key, where we arrived during the night, leaving this vessel to follow at the change of tide. On our arrival there, we found that the Indians, who proved to be the Spanish Indians, having loaded their boats with supplies of every description from the store of Mr. Housman, the proprietor of the Key, had destroyed the town by fire, and retired without molesting our hospital or depot at Tea-table Key—distant but one mile—for which the most serious apprehensions were entertained. Midshipman Murray had, however, made every preparation for its defence which his limited means would allow.

That the Indians were conducted to their attack by some person or persons acquainted with the localities of the Key, cannot be doubted. Their landing was effected on the outer side of the Key, at a point the most remote from their approach, yet at a corner of the town uninhabited, whilst every consideration, if ignorant of this fact, would have induced them to have landed at a point directly opposite. Landing where they did, their retreat was liable to be cut off; and but for the loss of his guns, there is every reason to believe Midshipman Murray would have effected this in the destruction of their canoes; whilst, by landing at the opposite point of the Key, their retreat could have been securely effected on the approach of any danger. Again: negroes were seen among them, who, with others, were heard to speak English; and these last not in the dialect of the negro. This information is gathered from the sufferers of the attack. Lieutenant Commandant Rodgers, in the Wave, had left there but the day before for Cape Romano, carrying with him from Tea-table Key every man capable of doing service but five. That this departure was communicated to or looked for by the Indians, there cannot be a doubt. In presence of his force, their invariable policy forbids the belief that they would have ventured upon the attack.

In so serious a disaster, when so great a loss of life was to be looked for, it is gratifying to know that it was small. Dr. Perrine, Mr. Motte, his wife and two young children, and a lad named Furdy, were killed—the latter drowned in a cistern in which he had concealed himself. Mr. Otis was wounded, and the missing are a negro woman with her two children, belonging to Mr. Housman. These were carried off by the Indians. They retired at 2 p. m. of the 6th ultimo, in thirty-four boats, six of which had been taken from the Key. In some of the boats six, seven, and eight people were counted—in none less than four; so that their number could not have been short of one hundred and thirty-four people.

Those who escaped from the Key found refuge in the schooner Medium, then lying in the harbor. Every convenience and comfort which it was in the power of the officers of this expedition to furnish them in their destitute condition, has been extended to them. I have also furnished them such supplies from the public stores as were necessary.

The widow and family of Dr. Perrine have taken shelter in this vessel, awaiting transportation to the north.

Respectfully, sir, I have the honor to be,

JOHN T. McLAUGHLIN,
Lieutenant Commandant.

Hon. J. K. PAULDING,
Secretary of the Navy, Washington city.

TEA-TABLE KEY, August 7, 1840.

SIR: I have the honor to report that Indian Key was last night taken by the Indians; of which fact I was apprized from the Medium, at daylight this morning. Our force here consisted of five men, with whom, joined to seven or eight of the sick who volunteered readily, but were too weak to be of much service, I started for the Key, at first with the intention of landing; which, however, was opposed by the enemy, who had taken refuge in every house, and opened a heavy fire, which fell thick around us—striking our boats, and wounding one man severely and dangerously in the thigh. They appeared also in great numbers on the beach, yelling and firing—which firing we returned with three discharges of our 4-pounders, in the barges. At the third discharge, being obliged to fire them athwart ship, our guns rebounded overboard. Being deprived of the means of cutting off their retreat, I returned to Tea-table Key, to make preparations for the attack, which I think more than probable it is their intention to make upon us, being assured that our amount of force and means rendered us of no assistance to the inhabitants of Indian Key, if any survived, which is not to be supposed.

The families of Messrs. Housman and Howe, and two seamen, have alone escaped.

I have the honor to be, sir, very respectfully, &c.,

FRANCIS KEY MURRAY,
Midshipman U. S. Navy.

Lieut. Com. J. T. McLAUGHLIN,
Key-Biscayne.

P. S.—The Indian force, at the lowest estimate, judging from the number of canoes, was fifty or sixty. I am obliged to write in great haste. The Indians used the long guns on the Key, firing them at us repeatedly with good aim.

UNITED STATES SCHOONER FLIRT,
Key West, August 21, 1840.

SIR: I have the honor to advise you that the express despatched to Lieutenant Commandant Rodgers, advising him of the attack on Indian Key, reached him at Cape Romano on the 9th instant, at 10 p. m.

In his report, he states: "Immediately on its receipt, I sent for the canoes, and the marines who were on shore guarding them; owing, however, to the wind, the high sea, and the distance, it was 8 o'clock in the

morning before they got on board, having been pulling all night. At 9 o'clock I got under way for Indian Key; but did not arrive at Cape Sable till the morning of the 11th, having had light airs and calms. Hence I started immediately in the canoes, with sixty officers and men, for Indian Key, where I arrived next morning at 9 o'clock, having been pulling nearly twenty-four hours without stopping, except half an hour for meals. The wind and tide were both ahead, with a heavy sea running, which swamped one of the canoes with the marines. Their arms, &c. were lost, but the men and boat were saved."

The course pursued by Lieut. Com. Rodgers was the most judicious that could have been followed. There was every hope that his speedy return would intercept the Indians on their passage back from Indian Key to the main, and furnish us at least with a clue to their haunt. His well directed exertions, however, failed in their intention.

Respectfully, sir, I have the honor to be,

JOHN. T. McLAUGHLIN,
Lieutenant Commandant.

Hon. J. K. PAULDING,
Secretary of the Navy, Washington city.

UNITED STATES SCHOONER FLIRT,
Key Biscayne, August 11, 1840.

SIR: Captain Housman, the proprietor of Indian Key, having called upon me for a garrison for the island, I entered into arrangements with him for the cession of the whole Key to the United States, except a small portion of it for his store and dwelling. This arrangement cedes the Key to the United States, for a military post during the continuance of the Florida war, or for so long as the United States may think proper to hold it for that purpose during the continuance of the war.

The Key being thus placed under military control exclusively, I have ordered the removal of my hospital and depot from Tea-table Key thereto. Abundance of water, with good wharves, and storage in three outhouses, which escaped the flames, have been the inducement to make this transfer; whilst, at the same time, it saves me the necessity of further dividing my small force to furnish another garrison for this place.

I have the honor to enclose you a copy of the arrangement entered into with Captain Housman.

Respectfully, sir, I have the honor to be,

JOHN T. McLAUGHLIN,
Lieutenant Commandant.

Hon. J. K. PAULDING,
Secretary of the Navy, Washington, D. C.

This instrument testifies to an agreement between the undersigned contracting parties: the first named, John T. McLaughlin, in behalf of the United States; and the second, Jacob Housman, of Indian Key. Jacob Housman, of Indian Key, yields all right and claim to his property and possessions on Indian Key to John T. McLaughlin, for the United

States, to be used as a military post during the continuance of the Florida war, or for so long a period as the government of the United States may think proper to occupy it during the war; reserving to himself for his personal uses only that portion of it to be by him enclosed, which shall be hereafter defined by the contracting parties.

Signed this 9th day of August, 1840, at Indian Key.

JOHN T. McLAUGHLIN,
Lieutenant Commandant, Flirt.
JACOB HOUSMAN.

Witness :

W. S. DRAYTON,
United States Navy.

GEORGE H. TERRET,
Lieutenant of Marines.

An abstract of the evidence on which this claim is founded, bearing date March 19th, 1846, and marked A, is filed with the papers.

The claimants before the government now ask to be compensated for the losses which have been sustained, mainly upon the ground that the government did not afford the protection which the inhabitants of Indian Key had, under the circumstances, a right to expect. The language used by the memorialists is as follows : " It is undoubted that, had a competent force been maintained on the island, Housman's property would have been safe to this day. The government failed in affording that protection which Housman and the other inhabitants there had a right to demand, and did ineffectually call for, and property and life fell a sacrifice.

" Whether, however, it was the fault or misfortune of the governor, in neither case will a just and enlightened Congress regard the calamities and losses incident to the removal of the Indians, (a national policy,) to be borne by those persons who are, unfortunately, in the midst of the savage foe, and who were aroused to deeds of murder and rapine in consequence of the efforts of the government to remove and exterminate a national evil."

From this it may be inferred that the memorialists contend that the government, being under an obligation to protect their exposed property, is bound to make compensation for all losses growing out of the casualties of this Indian war.

Your committee, whilst they have many inducements to relieve the petitioners, cannot assent to the ground upon which they rest their claim. When Captain Housman acquired his interest in Indian Key he did so voluntarily, upon the dictates of his own judgment, and with a knowledge of all the hazards to which it was subject. He could not, more than other inhabitants, make it the duty of the government to afford his property any other protection than such as its judgment and sense of justice might suggest : at any rate, he could not impose upon the government an obligation to make good all losses that might be incurred by the acts of an irresponsible enemy.

If he or his representatives are entitled to relief, it must be upon the ground that private property had been used for public purposes, or that it had been destroyed directly in consequence of its having been used as a place of military or naval deposit by the order of an officer or an agent of the United States. There is no doubt but that Indian Key *had* been used as a naval station until September, 1839. After that time the Tea-

table Key, about a mile distant, seems to have been the *local* station, with some understanding, perhaps, that Indian Key would receive protection from it; but it does not seem to your committee that Indian Key, at the time the property upon it was destroyed, was such a place of military or naval deposite as is described and contemplated by the acts on this subject, to wit: the acts of 1816 and 1817. In the opinion of your committee, the case resolves itself into this: that Indian Key was invaded by a lawless band of robbers, for the purposes of plunder as well as destruction, at a time of unusual exposure, but not when it was actually appropriated or occupied for the purposes of the government; and, in this view of the subject, your committee are of opinion that compensation cannot be allowed according to any strict or uniform rule for regulating the adjustment of such claims. They therefore recommend the adoption of the accompanying resolution.

Resolved, That it is inexpedient to grant the prayer of the petitioners.